

Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605. (This is a GIL.)

December 17, 2004

Dear Xxxxx:

This letter is in response to your letter of recent date, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am requesting that you send back the sales tax I have been charged, because of the items I have bought in the United States stores. As I was told by the U. S. Customs executive, I am sending you the sales receipts, as well as the bar codes and a copy of my passport, for you to know that I am a foreign tourist from Mexico City.

I thank you in advance for paying attention to my request. I'll be looking forward to hearing from you soon.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. Mere possession in Illinois is considered a use. Consequently, if the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer. Please note that a sale is taxable, even though a purchaser that receives physical possession of the property in this State

immediately transports the property out of this State for use outside the State. See 86 Ill. Adm. Code 130.605(a)(2). The State of Illinois has no specific exemption for purchases by foreign or domestic travelers where the property is delivered and used in Illinois.

However, when a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See subsection (b) of 86 Ill. Adm. Code 130.605. For example, the exemption would apply when a seller makes delivery in Illinois to a freight forwarder who handles the arrangements for the property to be delivered outside the United States, not to be returned to the United States. The result would be different if the purchaser received or picked up the goods prior to delivery to a freight forwarder. Based upon the information you provided, none of the items that were purchased would qualify for this exemption since they were all received by you in this State.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk